

REMARKS

Claims 1-129 and 164-174 are pending in the above-identified application. The Examiner rejected claims 1-129 and 164-174.

I. REJECTION OF CLAIMS 1-129, 164-168, 170 AND 173 UNDER 35 U.S.C. § 112, ¶1

Claims 1-129, 164-168, 170 and 173 stand rejected under 35 U.S.C. § 112, ¶ 1, for failing to comply with the written description requirement. Under the heading "Claims 1, 32, 51, 85, and 112 contain new matter", the Office Action states that

[c]laims 1, 32, 51, 85, and 112 as amended include the limitation of "programming one of the receiver and the transmitter to process communication protocol for a local area network or a personal area network." Nowhere in the specification does the Applicant provide details regarding programming the device to be capable of processing various communication protocols. The Applicant does describe that the device is capable of being programmed to receive a specific RF signal, but nowhere in the specification does the Applicant describe that the device is programmed to process multiple communication protocols.

Applicants respectfully disagree and traverse the rejection. Support for these elements may be found in the specification at, for example, page 11, lines 5-22; page 11, lines 31-35 to page 12, lines 1-3; page 20, lines 31-35 to page 21, lines 1-26; page 29, lines 4-8; page 31, lines 31, lines 16-22; page 32, lines 15-28; page 45, lines 26-35; page 67, lines 27-35 to page 68, lines 1-7; and page 1, lines 34-35 to page 2, lines 1-10.

It is therefore respectfully requested that the rejection under 35 U.S.C. § 112, ¶ 1, be withdrawn with respect to claims 1-129, 164-168, 170 and 173.

II. NEW MATTER REJECTION UNDER M.P.E.P. §§ 706.03(o) AND 2163.06

In rejecting claims 1-129, 164-168, 170 and 173, the Examiner alleges that these claims contain new matter and, as a result, these claims "will not be examined for a prior art rejection". The Examiner's refusal to conduct a search or to apply cited prior art to the claims containing the alleged new matter is contrary to the examining procedure under the M.P.E.P.

For example, under M.P.E.P. § 706.03(o), Examiner Note No. 3 recites "[i]f new matter is added only to a claim, an objection using this paragraph should not be made, but the claim should be rejected using form paragraph 7.31.01. As to any other appropriate prior art or 35

U.S.C. 112 rejection, the new matter **must** be considered as part of the claimed subject matter and **cannot be ignored.**" (emphasis added). Clearly, the Examiner has not considered the alleged new matter as part of the claims and has ignored the alleged new matter.

Under the heading "I. Treatment of New Matter", M.P.E.P. § 2163.06 states that "[i]f new matter is added to the claims, the examiner should reject the claims under 35 U.S.C. 112, first paragraph - written description requirement. *In re Rasmussen*, 650 F.2d 1212, 211 USPQ 323 (CCPA 1981). The examiner should still consider the subject matter added to the claim in making rejections based on prior art since the new matter rejection may be overcome by applicant."

It is therefore respectfully requested that the Examiner consider the alleged new matter and not ignore it. Furthermore, it is respectfully requested that the Examiner consider the alleged new matter added to the claims based on the prior art.

Since the Examiner did not consider the alleged new matter added to the claims based on the prior in the Office Action mailed on August 21, 2003, Applicants respectfully request that another office action or a notice of allowance be issued for the present application.

Since the Examiner did not fully consider the remarks and arguments respectfully made in the Amendment filed on June 13, 2003, Applicants respectfully request that the Examiner give these remarks and arguments his full consideration.

III. REJECTION OF CLAIMS UNDER 35 U.S.C. § 102(e) WITH RESPECT TO CLAIMS 169, 171, 172 AND 174

Claims 169, 171, 172 and 174 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,953,640 to Meador et al.

The Office Action does not respond to the remarks and arguments made in the Office Action filed on June 13, 2003. It is therefore respectfully requested that the Examiner reconsider his rejection of claims 169, 171, 172 and 174 in view of the remarks and arguments respectfully made, but not considered by the Examiner, in the Office Action filed on June 13, 2003.

IV. REQUEST FOR AN INTERVIEW

Applicants respectfully request that this response to the Final Office Action be entered. In addition, Applicants respectfully request an interview with the Examiner to discuss this response. As soon as possible, the Examiner is invited to contact Applicants' registered representative, Michael T. Cruz, Reg. No. 44,636, at (312) 775-8084 to set up the interview.

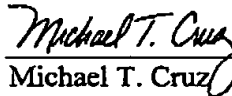
V. CONCLUSION

In view of at least the foregoing, it is respectfully submitted that the pending claims 1-129 and 164-174 are in condition for allowance. Should anything remain in order to place the present application in condition for allowance, the Examiner is kindly invited to contact the undersigned at the telephone number listed below.

Please charge any required fees not paid herewith or credit any overpayment to the Deposit Account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

Dated: November 21, 2003

Respectfully submitted,



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